

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

TENNESSEE CLEAN WATER)	
NETWORK and TENNESSEE SCENIC)	
RIVERS ASSOCIATION,)	No. 3:15-cv-00424
)	
Plaintiffs,)	Chief Judge Waverly Crenshaw
)	
v.)	
)	
TENNESSEE VALLEY AUTHORITY,)	
)	
Defendant.)	

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE A REPLY TO TVA'S
RESPONSE TO PLAINTIFFS' OBJECTIONS TO TVA'S AMENDED BILL OF COSTS
(Dkt.345)**

Plaintiffs Tennessee Scenic Rivers Association and Tennessee Clean Water Network (Conservation Groups) move for leave to file a reply of up to fifteen (15) pages to TVA's Response to Plaintiffs' Objections to TVA's Amended Bill of Costs (Dkt.345) on or before May 2, 2019.

On March 1, 2019, Defendant Tennessee Valley Authority (TVA) filed a Bill of Costs seeking \$90,993.18 in taxable costs from non-profit Conservation Groups in this Clean Water Act citizen enforcement case. (Dkt.321). After Conservation Groups objected (Dkt.328), this Court granted TVA's motion to respond. (Dkt.331). TVA's response included seven attachments. (Dkt.333). The first attachment appeared to be a new or revised bill of costs, seeking \$75,041.73. (Dkt.333-1). On April 2, 2019, this Court ordered docketed TVA's "Amended Bill of Costs, which was erroneously filed as an exhibit, as a standalone document," (Dkt.334), denied as moot Conservation Groups' objections, and stated that Conservation Groups "may file objections to the Amended Bill of Costs within the time allowed by the rules." (*Id.*).

Local Rule 54.01 provides a process for filing objections to a bill of costs, and states that “If objections are filed within the 14-day period, the Clerk shall review the objections and make a determination as to whether and in what amount the costs should be taxed.” LR 54.01. On April 15, 2019, Conservation Groups submitted objections pursuant to Federal Rule of Civil Procedure 54 and Local Rule 54.01(a) to TVA’s Amended Bill of Costs. (Dkt.341).

This Court has “the inherent and statutory authority to act on motions related to costs prior to any action by the clerk.” *BDT Prod., Inc. v. Lexmark Int’l, Inc.*, 405 F.3d 415, 418–19 (6th Cir. 2005), *abrogated on other grounds by Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560 (2012). On April 17, 2019, this Court granted TVA’s unopposed motion to file a response to objections filed by Conservation Groups. (Dkt.343). On April 25, 2019, TVA filed its response. (Dkt.345). To ensure the Court has the benefit of full briefing on the issues, including Conservation Groups’ request for equitable relief from taxation of costs, Conservation Groups request leave to file a reply of up to fifteen (15) pages to TVA’s Response to Plaintiffs’ Objections to TVA’s Amended Bill of Costs (Dkt.345) on or before May 2, 2019.

Counsel for Conservation Groups has conferred with counsel for TVA and TVA does not oppose the relief requested in this Motion. A proposed order accompanies this Motion.

Respectfully submitted,

s/ Amanda R. Garcia

Amanda R. Garcia (BPR No. 033773)

SOUTHERN ENVIRONMENTAL LAW CENTER

1033 Demonbreun Street, Suite 205

Nashville, Tennessee 37203

Telephone: (615) 921-9470

Facsimile: (615) 921-8011

agarcia@selctn.org

Counsel for Tennessee Scenic Rivers Association

s/ Michael S. Kelley

Michael S. Kelley (BPR No. 014378)

KENNERLY, MONTGOMERY & FINLEY, P.C.

550 Main Street, Fourth Floor

Knoxville, Tennessee 37902

Telephone: (865) 546-7311

Facsimile: (865) 524-1773

mkelley@kmfpc.com

Counsel for Tennessee Clean Water Network

CERTIFICATE OF SERVICE

I hereby certify that Plaintiffs' Unopposed Motion for Leave to File a Reply to TVA's Response to Plaintiffs' Objections to TVA's Amended Bill of Costs was filed electronically on April 26, 2019, through the Court's Electronic Filing System. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

David D. Ayliffe
Tennessee Valley Authority
General Counsel's Office
400 W Summit Hill Drive
Knoxville, TN 37902
(865) 632-8964
(865) 632-6718 (fax)
ddayliffe@tva.gov

Lane E. McCarty
Tennessee Valley Authority
General Counsel's Office
400 W Summit Hill Drive
Knoxville, TN 37902
(865) 632-2396
(865) 632-6718 (fax)
lemccarty@tva.gov

James S. Chase
Tennessee Valley Authority
General Counsel's Office
400 W Summit Hill Drive
Knoxville, TN 37902
(865) 632-4239
(865) 632-3195 (fax)
jschase@tva.gov

Frances R. Koho
Tennessee Valley Authority
General Counsel's Office
400 W Summit Hill Drive
Knoxville, TN 37902
(865) 632-2396
(865) 632-6718 (fax)
frkoho@tva.gov

Counsel for Tennessee Valley Authority

s/ Amanda R. Garcia
AMANDA R. GARCIA